

REMARKS/ARGUMENTS

Claims 21-22 and 24-29 are pending. The Examiner has indicated that the claim amendments submitted 11 March 2005 have not been entered. Accordingly, Claim 21 has been amended herein by replacing the word "compound" with the more precise term "diketopiperazine." Claim 23 has been cancelled without intending to abandon or to dedicate to the public any patentable subject matter. As set forth more fully below, reconsideration and withdrawal of the Examiner's rejections of the claims are respectfully requested.

Rejection Under 35 U.S.C. § 112, First Paragraph.

The Examiner has rejected Claims 21-29 under 35 U.S.C. § 112, first paragraph, as not satisfying the written description requirement. It is the Examiner's position that Applicants have broadened the scope of the claims in making amendments to the claims in Applicants' response filed 24 September 2004. Specifically, it is the Examiner's position that Applicants are now claiming a method of making a diketopiperazine intermediate that may be further modified chemically to form diketopiperazines having a side chain other than Asp or Glu and that such other diketopiperazines would therefore have a structure broader than the genus of diketopiperazines disclosed in the specification.

Applicants have further amended Claim 21 herein to specify that the product of the claimed method is a diketopiperazine limited to the genus specifically described in the specification. Accordingly, the Examiner is asked to withdraw this rejection under 35 U.S.C. § 112, first paragraph.

Based on the foregoing, Applicants believe that all pending claims are in condition for allowance and such disposition is respectfully requested. In the event that a telephone conversation would further prosecution and/or expedite allowance, the Examiner is invited to contact the undersigned.

Respectfully submitted,
SHERIDAN ROSS P.C.

By: ROBERT D. TRAVER
Robert D. Traver
Registration No. 47,999
1560 Broadway, Suite 1200
Denver, Colorado 80202-5141
(303) 863-9700

Date: 22 April 2005